

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'B' Bench, Hyderabad

Before Shri Laliet Kumar, Judicial Member
And
Shri Madhusudan Sawdia, Accountant Member

आ.अपी.सं / **ITA No. 640/Hyd/2023**
(निर्धारण वर्ष / Assessment Year: 2021-22)

Shri Sridhar Gurram Hyderabad PAN:AJGPG2546Q (Appellant)	Vs.	Income Tax Officer (International Taxation)1 Hyderabad (Respondent)
निर्धारिती द्वारा / Assessee by:		Shri Kumar Pal Tated, CA
राजस्व द्वारा / Revenue by:		Smt. Sheetal Sarin, DR
सुनवाई की तारीख / Date of hearing:		05/06/2024
घोषणा की तारीख / Pronouncement:		14/06/2024

आदेश/ORDER

Per Laliet Kumar, J.M

This appeal filed by the assessee is directed against the assessment order dated 31/10/2023 relating to A.Y.2021-22 u/s 143(3) r.w.s. 144C(13) of the I.T. Act, 1961.

2. The assessee raised the following grounds:

S.No.	Grounds of Appeal	Tax Effect
1.	The Final assessment order passed by the Income Tax Officer, INTL TAX-1, Hyderabad (herein after referred to as 'Ld. AO') is bad both in the eye of law and on facts.	General ground
2.	Erred in passing an assessment order where the time Limit prescribed u/s 153 for completion of assessment has lapsed	
2.1	The Ld. AO erred in passing the assessment order dated 30.10.2023 by ignoring the fact that time limit for completion of assessment u/s 153 has been lapsed, therefore the assessment order passed is erroneous and bad-in-law	Technical ground
2.2	The Ld. AO erred in not considering the fact that the time limit prescribed u/s 153 would prevail over u/s 144C of the Act. Therefore the assessment order passed after the time limit prescribed u/s 153 is void and bad in law.	Technical ground
2.3	The Ld. AO ought to have appreciated the fact that, the assessment has to be completed within 9 months from the end of the assessment year in which income first assessable as per u/s 153 of the Act however the order has been passed as on or after 9 months which is invalid and bad in law.	Technical ground
2.4	The Ld. AO ought to have appreciated the fact that the time limit for the completion of assessment u/s 153 has lapsed on 31.12.2022 and hence the Assessment order passed u/s 144C is invalid and bad-in-law.	Technical ground
3.	Erred in making addition of Rs.74,50,000/- as unexplained money u/s 69A of the I.T. Act	
3.1	The Ld. AO erred in making addition u/s 69A towards Unexplained Money without appreciating the facts and circumstances of the case and without considering the submissions made.	Rs. 48,72,300/-

3.2	The Ld.AO ought to have appreciated the fact that the assessee being an NRI, does not have any source of earning in India and that there is no scope or intention to evade the tax in India.	Rs. 48,72,300/-
3.3	The Ld. AO ought to have properly appreciated the fact that the assessee has maintained proper record for the transaction and discharged its onus by furnishing the (a) nature of transaction (b) genuineness of transaction and (c) the creditworthiness by furnishing confirmations etc.	Rs. 48,72,300/-
3.4	The Ld. A.O ought to have appreciated that, the assessee has discharged his onus by explaining the source of cash deposits made in the bank account and by providing the confirmations from assessee's father and wife at the time of remand proceedings.	Rs. 48,72,300/-
3.5	The Ld. AO ought to have fairly appreciated the fact that, the cash deposits were sourced from various sources like cash gifts received from father and wife and out of cash withdrawals which were made in the earlier periods.	Rs. 48,72,300/-
3.6	The Ld. AO ought to have appreciated the actual facts that, the gifts which are received by the assessee are out of the agriculture income which is earned by assessee's father and wife.	Rs. 48,72,300/-
3.7	The Ld. AO ought to have appreciated the factual and legal positions that the conditions as mentioned under section 69A are duly satisfied by the assessee apparently by furnishing the required evidences.	Rs. 48,72,300/-
3.8	The Ld. AO ought to have appreciated legal position that as per the provisions of the Income Tax Act, 1961, mere receipt of any amount cannot be prima facie itself characterized as income in hands of the assessee, unless it is chargeable to tax as per the charging sections of the Act under any five heads of income.	Rs. 48,72,300/-

3.9	The Ld. AO ought to have appreciated the fact that Bank Account does not get covered under the definition of Books of Accounts as prescribed by section 69A of the Act.	Rs. 48,72,300/-
4.	Erred in making addition of Rs.35,00,000/- as unexplained money u/s 69A of the I.T. Act	
4.1	The Ld. AO erred in making addition u/s 69A towards Unexplained Money without appreciating the facts and circumstances of the case and without considering the submissions made.	Rs.22,89,000/-
4.2	The Ld.AO ought to have appreciated the fact that the assessee being an NRI, does not have any source of earning in India and that there is no scope or intention to evade the tax in India.	Rs.22,89,000/-
4.3	The Ld. AO ought to have properly appreciated the fact that the assessee has maintained proper record for the transaction and discharged its onus by furnishing the (a) nature of transaction (b) genuineness of transaction and (c) the creditworthiness by furnishing confirmations etc.	Rs.22,89,000/-
4.4	The Ld. AO ought to have appreciated the fact that gift received from Mother-in-law, Smt. P.Bharathi is out of PGBP Income earned by her and the same has been already offered to tax, making addition of the same again leads to double taxation which is injustice to the assessee and bad in law.	Rs.22,89,000/-
4.5	The Ld. AO ought to have appreciated the fact that, the assessee has discharged onus by providing the confirmations from assessee's Mother-in-law.	Rs.22,89,000/-
4.6	The Ld. AO ought to have appreciated the factual and legal positions that the conditions as mentioned under section 69A are duly satisfied by the assessee apparently by furnishing the required evidences.	Rs.22,89,000/-

4.7	The Ld. AO ought to have appreciated legal position that as per the provisions of the Income Tax Act, 1961, mere receipt of any amount cannot be prima facie itself characterized as income in hands of the assessee, unless it is chargeable to tax as per the charging sections of the Act under any five heads of income.	Rs.22,89,000/-
4.8	The Ld. AO ought to have appreciated the fact that Bank Account does not get covered under the definition of Books of Accounts as prescribed by section 69A of the Act.	Rs.22,89,000/-
5.	Erred in making addition of Rs.27,00,000/- as unexplained money u/s 69A of the I.T. Act	
5.1	The Ld. AO erred in making addition u/s 69A towards Unexplained Money without appreciating the facts and circumstances of the case and without considering the submissions made.	Rs.17,65,800/-
5.2	The Ld.AO ought to have appreciated the fact that the assessee being an NRI, does not have any source of earning in India and that there is no scope or intention to evade the tax in India.	Rs.17,65,800/-
5.3	The Ld. AO ought to have properly appreciated the fact that the assessee has maintained proper record for the transaction and discharged its onus by furnishing the (a) nature of transaction (b) genuineness of transaction and (c) the creditworthiness by furnishing confirmations etc.	Rs.17,65,800/-
5.4	The Ld. AO ought to have appreciated the fact that gift received from Brother-in-law, Sri. P. Chandra Sekhar is out of Capital Gain Income earned by him and the same has been already offered to tax, making addition of the same again leads to double taxation which is injustice to the assessee and bad in law.	Rs.17,65,800/-
5.5	The Ld. AO ought to have appreciated the fact that, the assessee has discharged onus by providing the confirmations from assessee's	Rs.17,65,800/-

	Brother-in-law.	
5.6	The Ld. AO ought to have appreciated the factual and legal positions that the conditions as mentioned under section 69A are duly satisfied by the assessee apparently by furnishing the required evidences.	Rs.17,65,800/-
5.7	The Ld. AO ought to have appreciated legal position that as per the provisions of the Income Tax Act, 1961, mere receipt of any amount cannot be prima facie itself characterized as income in hands of the assessee, unless it is chargeable to tax as per the charging sections of the Act under any five heads of income.	Rs.17,65,800/-
5.8	The Ld. AO ought to have appreciated the fact that Bank Account does not get covered under the definition of Books of Accounts as prescribed by section 69A of the Act.	Rs.17,65,800/-
6.	The Ld. AO erred in initiating the penalty proceedings u/s 274 r.w.s 271AAC(1) without appreciating the facts of the case	Penalty ground
7.	The Appellant may, add or alter or amend or modify or substitute or delete and/or rescind all or any of the grounds of appeal at any time before or at the time of hearing of the appeal.	General ground

3. Facts of the case, in brief, are that the assessee is a non-resident, filed the return of income for the A.Y 2021-22 on 30.12.2021 declaring income of Rs.Nil. Subsequently, the case was selected for scrutiny assessment under CASS in accordance with the provisions of the I.T. Act, 1961 for the reason "Large cash deposits in bank account and assessee has also purchased/sold one or more properties during the year (both buying and selling transactions are to be considered). Statutory notices u/s 143 (2) and 142(1) of the I.T. Act, 1961 were issued and served on the

assessee to which the assessee filed the requisite details as called for by the Assessing Officer from time to time. The assessee has thus submitted that the sources of cash deposits were from the amounts received from father and wife and cash withdrawals of earlier period, but has not given proper documentary evidences. Since the assessee is a Non-Resident, the matter was referred to DRP who justified the action of the Assessing Officer. Rejecting all the objections and claims made by the assessee, the Assessing Officer completed the assessment and assessed the total income of the assessee at Rs.1,36,50,000/- the details of which are as under:

5.1. The assessee is a Non-Resident individual and filed his return of income for the A.Y. 2021-22 on 30.12.2021 declaring income of Nil. The assessee in the relevant F.Y. 2020-21 has purchased a property for a consideration of Rs. 2,88,61,500/- vide Sale Deed dated 20-01-2021 vide documents no.1429/2021. When enquired about the sources of consideration paid towards purchase of above property, assessee has submitted that he has taken a loan of Rs. 2,06,74,904/- from HDFC (Housing Development Finance Corporation Limited) and the amount of 72,15,375/- were sources out from the gifts received during the year from family members, friends and others vide its reply dated 13-08-2022.

Subsequently to verify the claim made by the assessee vide its reply dated 13-08-2022 and earlier a fresh notice U/s.142(1) dated 03-12-2022 and Notice U/s.142(1) cum Show Cause dated 21-12-2022 issued during the course of assessment proceedings and assessee filed its reply accordingly on 16-12-2022 and 28-12-2022 respectively.

5.2 On perusal of all the above submission made by the assessee during the course of assessment proceedings and on-going through the loan account statement and disbursement details furnished by the assessee, the total loan disbursed was found to be Rs.2,06,74,904/- as mentioned by the assessee in his above reply dated 28.12.2022. Therefore, the source of purchase of above immovable property found to be explained to the tune of Rs.2,06,74,904/- only from housing loan. Further, it is also observed from the above sale deed dated 20-01-2021 that the total consideration paid towards purchase of above discussed property is as under:

Sl.No.	Description	Amount in INR
1	Total Sale Consideration	28861500

2	Registration and other charges	1731890
	Total	30593390

On perusal of the assessee's submission and bank account statement furnished during the course of assessment proceedings, it is observed that apart from housing loan of Rs.2,06,74,904/- the assessee has paid following amount to the Seller "M/s.Aqua Space Developers Private Limited (as mentioned in the sale deed dated 20-01-2021)" through ICICI Bank A/c.No.801086355, the details of the payment are as under:

Sl.No.	Name of the Bank & Branch	Account No.	Type of Account	Date of Cash deposits	Payment Mode	Amount in Rs.
1.	ICICI Bank, Khairatabad	801086355	NRO Saving Account	21-09-2020	RTGS	391520
2.	ICICI Bank, Khairatabad	801086355	NRO Saving Account	22-09-2020	RTGS	500000
3.	ICICI Bank, Khairatabad	801086355	NRO Saving Account	06-10-2020	RTGS	500000
4.	ICICI Bank, Khairatabad	801086355	NRO Saving Account	20-11-2020	NEFT	50000
5.	ICICI Bank, Khairatabad	801086355	NRO Saving Account	23-11-2020	RTGS	500000
6.	ICICI Bank, Khairatabad	801086355	NRO Saving Account	24-11-2020	RTGS	500000
7.	ICICI Bank, Khairatabad	801086355	NRO Saving Account	03-12-2020	RTGS	600000

8.	ICICI Bank, Khairatabad	801086355	NRO Saving Account	04-12-2020	RTGS	500000
9.	ICICI Bank, Khairatabad	801086355	NRO Saving Account	07-12-2020	RTGS	500000
				Total		4041520

In view of the above payment details, it is ascertained from the submission made by the assessee and the case record that, against the total investment of Rs.3,05,93,390/- towards purchase of above discussed property vide documents no.1429/2021 dated 20-01-2021, the total amount paid from banking loan and out of cash deposits stands to be Rs.2,47,16,424/- (20674904 + 4041520) only as per all the submission made by the assessee and after verifying all bank account statement on the record. It is also observed from the ICICI Bank A/c. No. 801086355 statement that out of total cash deposits of Rs.74,50,000/- the payments made towards M/s.Aqua Space Developers Private Limited found to be Rs.40,41,520/- and in the same financial year i.e. F.Y.2020-21 a total amount of Rs.37,62,500/- paid towards purchase of another property and payments made to M/s. My Home Cons (As shown in bank account statement)”

4. Aggrieved with such order of the Assessing Officer, the assessee is in appeal before the Tribunal.

5. The learned Counsel for the assessee submitted that the assessee being an NRI, does not have any source of earning in India and that there is no scope or intention to evade the tax in India, since the assessee has maintained proper record for the transactions and discharged its onus by furnishing (a) nature of transaction (b) genuineness of transactions and (c) creditworthiness of the gifts given to the assessee. It is the

contention of the learned AR that the assessee during the year under consideration has made the total investment of Rs.3,85,37,076/- (by making payment to M/s. Aqua Space Developers (P) Ltd (Rs.3,43,87,076/-) and also making the investment in My Home Constructions (P) Ltd for an amount of Rs.41,50,000/-). The explanation of the assessee before the DRP was mentioned at page 7 of the DRP is as under:

1. Rs. 2,06,74,904/- paid through HDFC Housing loan.
2. Rs. 74,50,000/- from father Shri Gurram Sadananda Rao, wife Smt. Rajeshwari Gurram and personal savings which are deposited in cash in the bank account explained as discussed earlier.
3. Rs. 35,00,000/- from mother-in-law Smt. P Bharathi received through banking channels claimed to be a gift and source with mother-in-law are her income as disclosed in the Rol filed during last so many years, ITR and bank statement submitted.
4. Rs. 27,00,000/- received from his brother-in-law, Shri P Chandra Sekhar through banking channels and the same is claimed to be a gift, for sources with brother-in-law his ITR and bank statement is submitted.
5. ICICI Prudential insurance policy maturity received Rs. 73,67,053/- and another maturity proceeds of Rs. 35,00,000/- from LIC insurance policy.

6. The DRP has sought a remand report on the basis of the explanation and the evidences filed by the assessee, the Assessing Officer had objected and filed the remand report. In this regard, the DRP noted as under:

2.2.5 The submissions of the Assessee before DRP included certain additional evidences also and hence a remand report was called from the Assessing Officer and the AO submitted as under, vide report dated 28.09.2023;

Sub: Objection u/s 144C(2) before the Hon'ble DRP - In the case of Sri Gurram Sridhar –
PAN: AJGPG2546Q - Submission of remand report - reg.

Ref: 1) Letter of Secretary, DRP-1, Bangalore in DIN & Letter No: ITBA/DRP/F/17/2023-
24/1054875584(1) dated 04.08.2023 & 08.09.2023
2) This office letter of even number dated 09.08.2023

Kind reference is invited to the above.

2. A remand report was submitted in the above mentioned case vide this office letter dated 09.08.2023. However, the assessee in his rejoinder to the remand report has claimed that given an opportunity, he would submit all the required information and, therefore, requested to provide one more opportunity to explain his case. Considering the request of assessee, the Hon'ble DRP has directed the undersigned to give another opportunity to assessee to furnish additional evidence and submit a report on the same.

3. As per the directions of Hon'ble DRP, the assessee was given one more opportunity to furnish the relevant documentary evidence vide this office letter dated 08.09.2023. In response to the same, the assessee has made submissions along with certain documentary evidence in support of sources for purchase of flat and cash deposits made in bank account. The assessee has also clarified the issue of payment of advance to M/s My Home Constructions for purchase of another property.

4. The submissions made by the assessee and additional evidence furnished vide letter dated 20.09.2023 has been examined and the report is submitted as under:-

Unexplained investment u/s 69 & Unexplained money u/s 69A:-

4.1 In the previous submission before Hon'ble DRP, the assessee claimed that he had made payment of Rs.76,50,000/- through ICICI Bank in financial year 2018-19 to M/s Acqua Space Developers Pvt Ltd. for purchase of flat, but the same was not taken into consideration. The assessee's claim was verified with evidence submitted and it was pointed that if the payment made in financial year 2018-19 is taken into consideration, the cost of flat would be Rs.3,61,19,314/-, whereas the cost of flat stated by the assessee is Rs.2,88,61,500/-. In the sale deed, the details of payments made by assessee were not mentioned and the vendor has clearly mentioned the sale consideration as Rs.2,88,61,500/- and also acknowledged the receipt of the same from assessee. Further, from the bank account statement, it was not clear for which purpose the assessee had paid amount of Rs.75,60,000/- during financial year 2018-19 to M/s Acqua Space Developers Pvt Ltd., i.e for purchase of Flat No.3504 of My Home Bhooja or any other property. Due to the above reasons, the payment of Rs.76,50,000/- made in the financial year 2018-19 was not considered.

4.2 Now, the assessee vide letter filed on 21.09.2023 has clarified that the actual cost of flat was Rs.3,43,87,076/- and given the break-up of the same. In support of his claim, the assessee has filed a summary statement of cost of flat and ledger account copy maintained by M/s Acqua Space Developers Pvt Ltd. On a perusal of the summary statement and ledger account, it is seen that the assessee has booked Flat No.F-3504 in My Home Bhooja on 17.11.2018 by paying an amount of Rs.5,60,000/-. As per the clarification submitted now, an amount of Rs.2,88,61,500/- is paid towards cost of flat plus amenities and the balance amount of Rs.55,25,576/- is paid towards GST, corpus fund, maintenance charges, legal and registration charges. The assessee has filed bank account statement of ICICI Bank for the financial years 2018-19 & 2020-21 and correlated the payments reflected in ledger account with bank account statement.

4.3 With regard to sources for purchase of flat bearing No.F-3504, the assessee has explained the same as under:-

I. Purchase of Flat & cash deposits in bank account:-

(a) Housing loan from HDFC	:	Rs.2,06,74,904/-
(b) Maturity proceeds from LIC insurance policy	:	Rs. 35,18,000/-
(c) Maturity proceeds from ICICI Prudential policy	:	Rs. 73,67,053/-
(d) Gift from mother-in-law Smt. P. Bharathi	:	Rs. 35,00,000/-
(f) Cash deposits out of own savings, gifts from father & wife's agricultural income	:	Rs. 74,50,000/-

4.4 In so far as housing loan from HDFC and maturity proceeds from policies of LIC & ICICI Prudential are concerned, the assessee has submitted supporting documentary evidence and explained the same with bank account statements. Therefore, the sources for the same are acceptable.

7. The Assessing Officer filed the remand report on 21.9.2023 and the same has been reproduced by the DRP in para 2.2.5. In the remand report, the Assessing Officer has dealt with the submission and the explanation of the income of father-in-law and mother-in-law and concluded that the transaction does not appear to be genuine. The relevant paras 4.5 to 4.10 of the remand report as reproduced by the DRP is as under:

4.5 With regard to gift from mother-in-law Smt. P. Bharathi, the assessee has submitted confirmation letter, bank account statement and ITRs for the A.Ys 2019-20 to 2022-23. The assessee has claimed that his mother-in-law is a regular income tax assessee and filing returns of income for the last 15 years. The assessee further stated that his mother-in-law is engaged in business and also a partner in partnership firm. However, the nature of business and name of partnership firm is not mentioned. Smt. P. Bharathi has admitted that she has given a gift of Rs.35,00,000/- to assessee through confirmation letter and paid the said amount through bank account bearing A/c No.416601500179 maintained with ICICI Bank. On a perusal of the bank account of Smt. P. Bharathi, it is seen that there are certain credits through NEFT/transfer from M/s Global Link Services & Sri Tummala Sreedhar, out of which gift of Rs.35,00,000/- is given to the assessee. On going through the bank account details of Smt. P. Bharathi, it is seen that the statement given is only from 01.11.2020 to 31.12.2020 and in that the opening balance Rs.5,273/- which is a meagre amount. Further, it is also noticed that there is credit of huge amount just prior to the transfer to assessee and which in turn is transferred immediately to the assessee, which also becomes relevant when the assessee has also made huge cash deposit in his account. The probability of round tripping of money also cannot be ruled out.

4.6 The assessee had made cash deposits of Rs.74,50,000/- during financial year 2020-21. In the proceedings before Hon'ble DRP, the assessee had stated previously that the sources for cash deposits were out of gifts out of agricultural income of his father & wife, accumulated savings, gifts received on various occasions, etc. and submitted additional evidence in the form of ITR & Punjab National Bank account statement of his father G. Sadananda Rao and pattadar pass book of his father and wife.

4.7 But now, the assessee vide submissions made on 20.09.2023 has stated that his father is holding 15.31 acres of agricultural land & carrying on agricultural activity for the last 20 years and further that his wife is holding 2.93 acres of agricultural land and doing agriculture for the last five years. The assessee further explained that they have cultivated red chillies, fruits and vegetables and earned agricultural income of Rs.1,00,000/- per acre.

4.8 In respect of agricultural income earned by assessee's father, documentary evidence like pattadar pass book, ITRs, bank account statement and certificate issued by MRO, Chilakaluripeta Mandal, Palnadu District has been filed. The additional evidence submitted and submissions made by the assessee in respect of sources for cash deposits have been examined. On a perusal of MRO certificate, it is seen that assessee's father was holding 15.31 acres of land till 2021. The Tahsildar has certified that assessee's father has earned agricultural income of Rs.10,00,000/- per annum during the years 2010 to 2021. But the same was not corroborated by any documentary evidences and it is also worth mentioning here that without documentary evidences annexed, how Tahsildar has certified about the agricultural income. The assessee claimed that his father is a regular income tax assessee and furnished details for A.Ys 2016-17 to 2021-22. It is submitted that though the assessee's father is a regular income tax and also filed a certificate issued by MRO in support of agricultural income derived, there are no cash withdrawals in the bank account to support his claim. Further, assessee's father has not shown any agricultural income in his return of income for any of the year for which return of income has been furnished to this office. It is only after the first remand report sent to Hon'ble DRP, he has revised his return of income and shown agricultural income for the current year which evidently points out the damage control and after thought to evade taxes. The assessee's father had admitted agricultural income of Rs.10,00,000/- for A.Y 2020-21, but the same was admitted in updated return

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filed on 26.08.2023. The assessee has also not furnished the details of parties to whom agricultural produce is sold, bills and other documentary evidence. It is further submitted that the amount of agricultural income, i.e. Rs.10,00,000/- per annum certified by Tahsildar appears to be on a very high side.

4.9 As regards source for gift given by assessee's wife, it is claimed that the gifts were given out of agricultural income, past savings & gifts received from relatives & family members on various occasions. In support of the above claim, the assessee has submitted pattadar pass book & details of ITR filed for A.Y 2021-22, 2022-23 & 2023-24 admitting agricultural income. As stated above, no proof of cash withdrawals from bank account has been furnished. Further, the agricultural income admitted by assessee's wife does not relate to years prior to A.Y 2020-21.

4.10 In view of the above, the issue of sources for cash deposits of Rs.74,50,000/- claimed by the assessee to have been received as gifts out of agricultural income of his father & wife, past savings and gifts received on various occasions is an after thought to control damage after the case was selected for scrutiny and cannot be relied upon without any documentary evidence in support.

5. In page 7 of draft assessment order, the AO had mentioned that assessee had paid an amount of Rs.37,62,500/- to M/s My Home Constructions for purchase of another property. It is submitted that the above issue is clarified now.

5.1 As seen from the ICICI bank account statement of assessee, there are certain credits in the name of Sri P. Chandra Sekhar between 22.03.2021 to 31.03.2021. These funds were later transferred to My Home Construction Limited. During the present remand report proceedings, the assessee was asked to explain the same. In response to this, the assessee clarified that assessee has purchased another property during financial year 2020-21 from M/s My Home Construction Co and paid an amount of Rs.27,00,000/- upto 31.03.2021. With regard to sources, the assessee explained that he has received gift of Rs.27,00,000/- from his brother-in-law Sri P. Chandra Sekhar for purchase of another property. The assessee further stated that Sri P. Chandra Sekhar is an income tax assessee for the last 15 years and regularly filing returns of income. The assessee has stated that his brother-in-law Sri P. Chandra Sekhar has derived capital gains in the year under consideration and out of the same, gift of Rs.27,00,000/- was given to him. In support of his claim, the assessee has submitted confirmation letter, bank account statement and ITR for the A.Y 2021-22 of Sri P. Chandra Sekhar. As per the ITR, Sri P. Chandra Sekhar has admitted an income of Rs.38,40,570/- for A.Y 2021-22 and in the confirmation letter, he has admitted to have given a gift of Rs.27,00,000/- to assessee out of income earned during A.Y 2021-22 and past accumulated savings. However, assessee has only given the bank statement of only nine days, i.e. from 22.03.2021 to 31.03.2021 and only ITR acknowledgement.

Yours faithfully,


(N NARASIMHA CHARY)

Income Tax officer, (International Taxation)-1
Hyderabad

8. The DRP had rejected the contention of the assessee with respect to the explanation given by the assessee for Rs.74,50,000/- and also for Rs.35.00 lakhs and Rs.27.00 lakhs. The contention of the learned AR before us are that the assessee had submitted that the father and wife were earning income from agricultural activities and for that purposes, the assessee had placed on record the certificate of income from MRO and Tehsildar. The assessee had also placed on record the evidences with respect to the details of crop grown etc. However, the learned AR submitted that the DRP relying upon the remand report of the Assessing Officer rejected the submission of the assessee. Similarly, the DRP had also rejected the contention of the assessee with respect to the explanation, explaining the source of the amount of Rs.35.00 lakhs received from Smt. P Bharathi on the ground that the assessee has entered into alleged round-tripping of his own money. Further, the DRP had also rejected that the explanation of the assessee with respect to Rs.27.00 lakhs which was given by the brother-in-law of the assessee. For all these, the assessee had filed affidavit, documents and ITR of all the 3 persons.

9. It is the contention of the AR that the Assessing Officer/DRP has not examined the issue in details and have failed to take cognizance of the documents filed by the assessee and had wrongly rejected the documents filed by the assessee. It is the submission of the assessee that since the findings of the DRP given in Para 2.2.13.2 to 2.13.4 which is to the following effect is

very cryptic, non-speaking, therefore, it is the submission that the matter may kindly be remitted back to the file of the lower authorities for passing a fresh order. Relevant paras 2.2.13.2 to 2.2.13.4 is reproduced as under:

2.2.13.2 Another ground taken by the Assessee is against the AO's proposition that the sum of Rs. 74,50,000 deposited in cash in his bank account is unexplained – In view of the foregone discussion and the evidences placed before the Panel it is our considered opinion that subject cash deposit remains unexplained and hence there is no infirmity in the AO's action proposing subject sum to be unexplained money. Therefore, the ground is hereby rejected.

2.2.13.3 Furthermore, the Panel has held that apart from the sum of Rs. 74.50 lacs deposited in cash, other two credits of Rs. 35,00,000/- from Smt. Bharathi P and Rs. 27,00,000/- from Shri P Chandra Sekhar remains unexplained and the same needs to be brought to tax as unexplained money.

2.2.13.4 Accordingly, the Assessing officer is directed to bring the above two sums of Rs. 35,00,000/- and Rs. 27,00,000/- to tax as unexplained money u/s ~~69A~~ 69A of the Income-Tax Act, 1961.

10. The learned DR, on the other hand, heavily relied upon the order passed by the Assessing Officer and the DRP. The learned DR relied upon the decisions in the case of Smt. Prema Sundari reported in 42 Taxmann.com 178 & Rakesh Kumar Gupta, 115 Taxmann.com 438.

11. We have heard the rival arguments made by both sides and perused the material available on record as well as the documents filed before us and also before the Assessing Officer. As discernible from the order passed by the DRP, it is clear that

the DRP while upholding the addition, has not given any reasons for not accepting the evidences filed by the assessee with respect to the amount of Rs.74,50,000/-, Rs.35,00,000/- and Rs.27,00,000/-. We are of the considered opinion that the detailed reasonings/basis for rejecting the document, more particularly when the assessee has filed the documents from Revenue Authorities showing ownership of the agricultural land(his father-in-law) and Pattadar Pas Book and certificate from the Tehsildar become necessary, it was incumbent upon the authorities to examine the document and reject thereof more particularly when the assessee's father-in-law was holding agricultural land of 15.31 acres and carrying out agricultural activities. Similarly, his wife was also holding agricultural land of 2.93 acres which were duly supported by the documents. In our view, ends of justice would be served if another opportunity is granted to the assessee for proving its case before the lower authorities. Simultaneously, the lower authorities shall examine the documents and shall give reasons for accepting or rejecting the submissions/documents of the assessee. Needless to say, the authority shall also consider the applicable decisions in this regard as may be cited by the learned AR and now relied upon by the DR. Considering the totality of the facts of the case and in the interest of natural justice, we deem it proper to restore the issue to the file of the Assessing Officer with a direction to re-do the assessment afresh after providing sufficient opportunities of being heard to the assessee. The assessee is also hereby directed to appear before the Assessing Officer on the appointed date and

time and furnish the requisite details without seeking any adjournment under any pretext. We hold and direct accordingly.

12. In the result, appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the Open Court on 14th June, 2024.

Sd/-

Sd/-

(MADHUSUDAN SAWDIA) ACCOUNTANT MEMBER	(LALIET KUMAR) JUDICIAL MEMBER
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Hyderabad, dated 14th June, 2024

Vinodan/sps

Copy to:

S.No	Addresses
1	Shri Sridhar Gurram, 22-311-293/C Western Hills, Addagutta Society Kukatpally S.O Tirumalagiri 500027 Telangana
2	Income Tax Officer (International Taxation)-1 Aayakar Bhavan, Opp: LB Stadium, Basheerbagh, Hyderabad
3	DRP-1 Kendriya Sadan, 4 th Floor, C Wing, Bengaluru 560034
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order